

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

GLENN D. KAUP,)	4:07CV3007
)	
Plaintiff,)	
)	
vs.)	MEMORANDUM
)	AND ORDER
MICHAEL J. ASTRUE,)	
Commissioner of the)	
Social Security Administration,)	
)	
Defendant.)	

This matter is before the court upon Plaintiff's application for attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412. (Filing 25.) Plaintiff requests fees in the total amount of \$4,815.31, to be paid to his attorney, which represents 28.9 hours of work by his attorney, at an average hourly rate of \$162.99/\$163.38¹ per hour. Defendant does not oppose Plaintiff's application, and also requests that payment be made to Plaintiff's attorney. See filing 29.

The court has determined that Plaintiff was indeed the prevailing party in this action, as the Commissioner's decision was reversed and matter remanded for further proceedings; that the application for fees was filed in a timely fashion; and that the position of the Commissioner was not substantially justified. Plaintiff therefore is entitled to an award of reasonable attorney fees.

¹ This average hourly rate equals the statutory maximum of \$125.00, adjusted on a monthly basis to account for inflation since March 1996.

Accordingly,

IT IS ORDERED that:

1. Plaintiff's application for attorneys fees pursuant to the Equal Access to Justice Act (filing 25) is granted.
2. By separate document, the court shall enter judgment for Plaintiff and against Defendant, providing that Plaintiff is awarded attorney fees of \$4,815.31.
3. Payment of the attorney fee award shall be made to Plaintiff's attorney, Kimberly F. Long.

DATED: October 15, 2007.

BY THE COURT

s/ *David L. Piester*

David L. Piester
United States Magistrate Judge